

AMENDED IN ASSEMBLY MAY 22, 2003

AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1173**

**Introduced by Assembly Member Haynes**

February 21, 2003

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An act to amend Section 798.21 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 1173, as amended, Haynes. Mobilehomes: rent control: exemptions.

Existing law permits local governments to establish rent control, which may apply to a mobilehome park lease that meets specified criteria. Additionally, existing law exempts a mobilehome space from rent control when that space is not the principal residence of the homeowner and the homeowner has not rented the mobilehome to another party. Existing law presumes a mobilehome to be a principal residence unless a review of state or county records demonstrates that the homeowner is receiving a homeowner's exemption for another property or mobilehome in this state. Existing law exempts from the requirement that a mobilehome be a principal residence those mobilehomes that are being actively held available for sale by their owners, among others.

This bill would revise the presumption that a mobilehome is a principal residence, as described above, by further exempting from rent control the mobilehome of a homeowner who is domiciled ~~in another~~

*out of state, if reasonably—established demonstrated by specified information. The bill would also require that a mobilehome being actively held available for sale by the a homeowner, real estate broker, or mobilehome dealer be actively marketed and advertised for sale, as defined, in good faith to bona fide purchasers for value, if it is to remain exempt from the requirement that it be the homeowner's principle residence, as described above. The bill would provide that the homeowner has the burden of proving that the mobilehome was actively marketed for sale, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 798.21 of the Civil Code is amended to  
 2 read:  
 3 798.21. (a) Notwithstanding Section 798.17, if a  
 4 mobilehome space within a mobilehome park is not the principal  
 5 residence of the homeowner and the homeowner has not rented the  
 6 mobilehome to another party, it shall be exempt from any  
 7 ordinance, rule, regulation, or initiative measure adopted by any  
 8 city, county, or city and county, which establishes a maximum  
 9 amount that the landlord may charge a tenant for rent.  
 10 (b) Nothing in this section is intended to require any  
 11 homeowner to disclose information concerning his or her personal  
 12 finances. Nothing in this section shall be construed to authorize  
 13 management to gain access to any records which would otherwise  
 14 be confidential or privileged.  
 15 (c) For purposes of this section, a mobilehome shall be deemed  
 16 to be the principal residence of the homeowner, unless a review of  
 17 state or county records, *or other information that is available to*  
 18 *management, reasonably demonstrates* that the homeowner is  
 19 receiving a homeowner's exemption for another property or  
 20 mobilehome in this state or the homeowner is domiciled ~~in another~~  
 21 *out of state.*  
 22 (d) Before modifying the rent or other terms of tenancy as a  
 23 result of a review of state or county records or as a result of any  
 24 information that is available to the management that reasonably  
 25 ~~establishes~~ *demonstrates* that the homeowner is domiciled ~~in~~  
 26 ~~another~~ *out of state*, as described in subdivision (c), the

1 management shall notify the homeowner, in writing, of the  
2 proposed changes and provide the homeowner with a copy of the  
3 documents upon which management relied.

4 (e) The homeowner shall have 90 days from the date the notice  
5 described in subdivision (d) is mailed to review and respond to the  
6 notice. Management may not modify the rent or other terms of  
7 tenancy prior to the expiration of the 90-day period or prior to  
8 responding, in writing, to information provided by the  
9 homeowner. Management may not modify the rent or other terms  
10 of tenancy if the homeowner provides documentation reasonably  
11 establishing that the information provided by management is  
12 incorrect or that the homeowner is not the same person identified  
13 in the documents. However, nothing in this subdivision shall be  
14 construed to authorize the homeowner to change the homeowner's  
15 exemption status of the other property or mobilehome owned by  
16 the homeowner.

17 (f) This section does not apply under any of the following  
18 conditions:

19 (1) The homeowner is unable to rent or lease the mobilehome  
20 because the owner or management of the mobilehome park in  
21 which the mobilehome is located does not permit, or the rental  
22 agreement limits or prohibits, the assignment of the mobilehome  
23 or the subletting of the park space.

24 (2) ~~(A)~~—The mobilehome is being actively held available for  
25 sale by the homeowner, or pursuant to a listing agreement with a  
26 real estate broker licensed pursuant to Chapter 3 (commencing  
27 with Section 10130) of Part 1 of Division 4 of the Business and  
28 Professions Code, or a mobilehome dealer, as defined in Section  
29 18002.6 of the Health and Safety Code.

30 ~~(B)~~—~~A homeowner Code. A homeowner, real estate broker, or~~  
31 ~~mobilehome dealer attempting to sell a mobilehome shall actively~~  
32 ~~market and advertise the mobilehome for sale in good faith to bona~~  
33 ~~fide purchasers for value in order to remain exempt pursuant to this~~  
34 ~~subdivision.~~

35 ~~(C) In any action to enforce the provisions of this section, the~~  
36 ~~homeowner shall have the burden of proving that the mobilehome~~  
37 ~~was actively marketed for sale as required by this paragraph. For~~  
38 ~~purposes of this subdivision, a mobilehome is actively marketed~~  
39 ~~and advertised for sale only if all of the following criteria are met:~~

1     (A) *The mobilehome is priced consistently with comparable*  
2 *mobilehome sales.*

3     (B) *The mobilehome is made available for viewing by a*  
4 *prospective purchaser during reasonable hours.*

5     (C) *The mobilehome is advertised in the media, whether in*  
6 *print or otherwise, in a manner that is customary for the market in*  
7 *which the home is located.*

8     (D) *A sign clearly indicating the mobilehome is for sale and*  
9 *providing a telephone number for inquiries is located on or near*  
10 *the mobilehome.*

11     (3) The legal owner has taken possession or ownership, or both,  
12 of the mobilehome from a registered owner through either a  
13 surrender of ownership interest by the registered owner or a  
14 foreclosure proceeding.

